

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA**

DIMAS ARQUIMEDES SUAREZ, and
TARA MARIE SUAREZ aka TARA MARIE
COTTINO, Jointly and Individually as

Plaintiffs,

v.

NATIONPOINT A DIVISION OF NATION.
CITY BANK OF IN, and CAL-WESTERN
RECONVEYANCE and "JOHN DOE*" 1-10,
"JANE DOE*" 1-10

Defendants.

Case No. 2:10-cv-00113-RCJ-RJJ

ORDER

Defendant, First Franklin Financial Corporation (previously doing business as "NationPoint"), named as "Nationpoint a Division of Nation. City Bank of IN" (hereinafter, "NationPoint"), by and through its attorneys, Wolfe & Wyman LLP, filed a Motion to Dismiss on January 27, 2010. (Docket No. 5.) Discovery deadlines were set forth in a Discovery Scheduling Order. (Docket No. 22.) Trial was scheduled for December 7, 2010. (Docket No. 23.)

The Motion was filed under the Federal Rules of Civil Procedure 12(b)(6) for Failure to State a Claim. The Motion was made upon Notice of Motion, Memorandum of Points and Authorities and all pleadings, papers and documents filed with the Court. The matter came regularly for hearing on May 10, 2010 at 10:00 a.m.; Colt B. Dodrill, Esq. of the firm, Wolfe & Wyman LLP appearing on behalf of NationPoint, Dimas Suarez and Tara Suarez appearing in proper person, the Honorable

1 Robert C. Jones, United States District Court Judge presiding; the Court having read the moving
2 papers and having heard the arguments of the parties; and good cause appearing, hereby ORDERS as
3 follows:

4 1. Defendant NationPoint's Motion to Dismiss is DENIED WITHOUT PREJUDICE.
5 NationPoint may re-notice the Motion following the completion of the STAY and foreclosure
6 mediation described below.

7 2. This matter is hereby STAYED for no less than ninety (90) days beginning on May
8 10, 2010. The purpose of this STAY is to allow time for the parties to participate in a foreclosure
9 mediation described below. Pursuant to the Court's STAY of this matter, the December 7, 2010 trial
10 is hereby VACATED.

11 3. During this STAY, NationPoint may not sell, cause to be sold, or otherwise serve or
12 record any Notice of Trustee's Sale, Notice of Default, or any other similar document regarding the
13 foreclosure or Trustee's Sale of the Subject Property located at 3625 Tertulia Avenue, North Las
14 Vegas, Nevada 89081 ("Subject Property").


15 4. The STAY is contingent on Plaintiffs providing to NationPoint, via its counsel,
16 \$1,800.00 by check made payable to Wolfe & Wyman, LLP, beginning on May 25, 2010 and every
17 thirty (30) days thereafter. There shall be no grace period. These payments will be applied towards
18 the balance of Plaintiffs' loan. NationPoint's receipt of these payments is without waiver of any
19 Default or Notice thereof regarding the Plaintiffs' loan on the Subject Property. Should Plaintiffs
20 fail to timely make any required Payment, NationPoint may move the Court to lift the STAY and re-
21 notice the Motion to Dismiss.

22 5. The parties are directed to contact the Nevada Foreclosure Mediation Program to
23 request a mediator and schedule the mediation. The mediation shall be governed by the Order
24 Amending Foreclosure Mediation Rules filed by the Supreme Court of the State of Nevada on April
25 26, 2010, particularly Rule 7 regarding the Option for Inclusion in the foreclosure mediation
26 program. Counsel for NationPoint shall initiate this contact following the receipt of Plaintiffs' May
27 25, 2010 payment of \$1,800.00. NationPoint shall have present at the mediation, a person with
28 authority to modify the Plaintiffs' loan on the Subject Property. At the mediation, the parties are to

1 engage in good faith negotiations towards the modification of the Plaintiffs' loan on the Subject
2 Property.

3 6. Following the foreclosure mediation, NationPoint shall advise the Court of the status
4 of the mediation.

5 IT IS SO ORDERED on this 11 day of JUNE, 2010.

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8 UNITED STATES DISTRICT COURT JUDGE
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